

## **Office of Government Ethics Conference Session # 14, December 4, 2001**

### **SCIENCE AND FINANCIAL INTEREST**

“The scientist’s situation underscores how difficult it is to work out satisfactory solutions to modern conflict of interest problems. Simple reiteration of the injunction against serving two masters will not do. It is now clear, as it was not in the last century, that any pattern of restrictions, however admirable in purpose, must be carefully measured against its possible negative effect upon the government’s efforts to meet its urgent need for personnel and information.”

Report of the Bar of the City of New York, Conflict of Interest and Federal Service 177 (1960)

#### **Panelists**

**Stephen D. Nelson**, Associate Director of Science and Policy Programs, American Association for the Advancement of Science

**Robin Clay Fritsch**, Deputy Ethics Official, National Science Foundation

**Karen Santoro**, Deputy Ethics Counselor, National Institute of Allergies and Infectious Diseases, National Institutes of Health

**Jenny Slaughter**, Ethics Advisor, Food and Drug Administration

**Richard Thomas**, Associate General Counsel, Office of Government Ethics (moderator)

#### **Overview of Some of the Questions**

##### Government Ethics and Scientific Ethics: Competing Visions?

- Scientific ethics and scientists’ self-images
- Focus on disclosure and review by peers as “cure” for conflicts
- Focus on intellectual bias issues
- Continuing identification with scientific community in academia or industry and expectation of financial interests/activities common to that community
- Other barriers to communicating with scientists about government ethics rules

### The “University-Industrial Complex?”

- Universities as source of SGEs, IPAs and regular employees in scientific areas (e.g., GAO study on EPA Science Panelists)
- Direct industry funding of university-based research
- Expectation to bring in grants/contracts from industry, including faculty salary supports
- Intellectual property, university technology transfer programs, “entrepreneurial universities?”
- Research leads to consulting positions, expert witness opportunities, industry-sponsored teaching (e.g., continuing medical education courses), and other activities
- Capital-poor, research-intensive companies (e.g., many biotech) often pay experts with stock options and other equity interests, rather than cash: conflict problems for SGEs and regular employees coming from private sector science background
- University (and science journal) strategies for protecting integrity of research from conflicts of interest

### Intertwining of scientific expertise and financial interests: unavoidable?

- Assumptions underlying 18 U.S.C. § 208(b)(3) and 5 C.F.R. § 2640.203(g)
- Related assumptions underlying 18 U.S.C. §§ 203(c) and 205(c) and the “scientific expertise” justification for the very creation of SGE concept in 1962
- View that conflicts are avoidable (e.g., House Government Reform Committee hearings on CDC and FDA vaccine committees)

### If unavoidable, how much of a conflict is tolerable?

- Legal standards for waiver: 18 U.S.C. § 208(b)(1), (2), (3), as well as 5 C.F.R. § 2635.502(d)
- Efforts to develop specific criteria for scientists’ interests (e.g., FDA waiver criteria)
- Any areas of “zero tolerance?”

### Miscellaneous

- Need for “alternative” financial disclosure? (e.g., research grants to employer)
- Recurring issues as to when scientific questions constitute particular matters (e.g., GAO Report on EPA Science Panels)

- Outside consulting, speaking, teaching, writing activities for “active scientists”; conflict with academic expectations
- Post-employment issues, e.g., difficulties arising from privatization of certain scientific functions and the limits of the exception for scientific and technological information in 18 U.S.C. 207(j)(5)